In the High Court of Judicature at Madras
Dated : 02.1.2019

Coram :
The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice N.SATHISH KUMAR

Tax Case Appeal Nos.56 to 59 of 2011

Commissioner of Income Tax II,
Coimbatore ...Appellant in all the appeals

Vs

Sri A.Vadivel, Proprietor, Minu Textiles ...Respondent in TCA.No.56 of 2011

Sri A.Srinivasan, Proprietor, Srinivas Textiles ...Respondent in TCA.No.57 of 2011

Sri A.Sengottuvel, Proprietor, Anand Textiles ...Respondent in TCA.No.58 of 2011

Sri A.Mariappan, Proprietor, Mariappa Fabrics ...Respondent in TCA.No.59 of 2011

APPEALS under Section 260A of the Income Tax Act, 1961 against the common order dated 16.7.2010 respectively in ITA Nos.1573 to 1576/Mds/ 2007 on the file of the Income Tax Appellate Tribunal Madras 'A' Bench for the assessment year 2000-01.

TCA.No.56/2011

Appeal against the order of The Commissioner of Income Tax (Appeals),Coimbatore in PAN No.ABEPV8744R in Appeal No.45/06-07 dated 1.2.07 for the Assessment year 2000-2001 against the Assessment order in PA/GIR No. 1CPV0008 dated 10.03.2006 for the Assessment year 2000-2001.

TCA.No.57/2001

Appeal against the order of The Commissioner of Income Tax (Appeals), Coimbatore in PAN No. AIXPS3019E in Appeal No. 46/06-07 dated 1.02.07 for the Assessment year 2000-01 against The Assessment order in PA/GIR No.1CPS0049 dated 10.03.2006 for the Assessment year 2000-2001., TCA.NO.58/2011

Appeal against the order of the Commissioner Income Tax (Appeals), Coimbatore in PAN No. AIXPS33018F in Appeal No. 43/06-07 dated 1.2.07 for the Assessment year 2000-2001 against the Assessment order in PA No./GIR No.1CPS0038 dated 10.03.2006 for the Assessment year 2000-2001.

TCA.NO.59/2011

Appeal against the order of the Commissioner Income Tax (Appeals), Coimbatore in PAN No. ADWPM2351B in Appeal No. 44/06-07 dated 1.2.07 for the Assessment year 2000-2001 against the Assessment order in PA No./GIR No.1CPM0012 dated 10.03.2006 for the Assessment year 2000-2001.

For Appellant : Mr.T.R.Senthilkumar, SSC & Ms.K.G.Usharani, JSC

For Respondents : Mr.S.Sridhar

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

Heard the learned Standing Counsel for the appellant.

2. These appeals by the Revenue challenge the common order passed by the Income Tax Appellate Tribunal, which decided the issue in favour of the assessees. The appeals were admitted on 25.2.2011 on the following substantial questions of law :

> "i. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law to delete the addition on account of capital gains made by the Assessing Officer and upheld by the Commissioner of Income Tax (Appeals) under Section 45(6) read with Section 80CCB(2) of the Act is valid ? And
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> ii. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the addition made by the Assessing Officer even though gains resulting from switch over from one scheme of mutual fund to another scheme is eligible for capital gains?"

3. The Revenue seeks to withdraw these appeals on account of low tax effect in terms of Circular No.3 of 2018 dated 11.7.2018 issued by the Central Board of Direct Taxes.

4. In the light of the above, these appeals are dismissed as withdrawn and the substantial questions of law framed are left open. In the event, in any of the cases, the tax effect is above the threshold limit fixed in the said circular under exceptional clauses mentioned in the circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeals to be heard and decided on merits. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

To

1.The Income Tax Appellate Tribunal,
Madras 'A' Bench.

2.The Commissioner of Income Tax Appeal-I.
Coimbatore.

3.The Deputy Commissioner of Income Tax Circle I,
Erode.

+1cc to Mr.T.R.Senthikumar, Advocate, S.R.No.219
+1cc to Mr.S.Sridhar, Advocate, S.R.No. 369

TCA.Nos.56 to 59 of 2011

KS(CO)

rrs 12/3/2019